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trial, nor anything upon which to base a judgment of ouster. Dismissal was therefore the proper decree.

*Trade Labels—Fraudulent Use—Injunction—Suit by Trade Union.*—*Tracy v. Banker*, 49 N. E. Rep. (Mass.) 308. Under St. 1895, c. 462, § 3, entitled, "An act to protect manufacturers from the use of counterfeit labels and stamps," which extends to "any person, association or union;" *held*, that an unincorporated trade union may enjoin the unauthorized use and counterfeiting of a label it has adopted. This is contrary to the earlier decision of *Weener v. Brayton*, 152 Mass. 101, 25 N. E. 46, where technical difficulties in the statute as it then stood precluded a recovery by plaintiff in a similar action. See *Hetterman et al. v. Powers et al.*, 43 S. W. Rep. (Ky.), 180; YALE LAW JOURNAL, vol. VII. No. 5, p. 239, and cases there cited *pro* and *con*.

## PROCEDURE.

*Arguments to Jury—Reading Lawbooks.*—*Griebel v. Rochester Printing Co.*, 48 N. Y. Supp. 505. To permit counsel, in summing up a case, to read extracts from textbook and reports of cases to the jury, *held*, error, if objected to by opposing counsel and exceptions taken thereto. *Reich v. City of New York*, 12 Daly 72; *Bell v. McMaster*, 29 Hun. 272. See 1 Thomp. Trials, p. 720, tit. 4, c. 20, for a general discussion. The reading of such extracts is not relevant to a question of fact and may mislead the jury by inducing them to believe that such a thing is so as a matter of law.

*Libel and Slander—Libelous Pleading—Privileged Matter in Pleading—Relation to Issue.*—*Union Mut. Life Ins. Co. v. Thomas*, 83 Fed. Rep. 803. In an action by defendant against plaintiff insurance company to recover upon an insurance policy issued by the company on the life of defendant's husband, the company made answer denying the death of insured, and alleging as an affirmative defence that defendant and her attorneys had entered into an agreement and conspiracy to defraud plaintiff; that defendant and her attorneys had no knowledge of the death of the insured, but had alleged his death for the sole purpose of carrying out the conspiracy and fraud. *Held*, libel and slander. The American rule, contrary to the English, is that matter alleged in a pleading, in order to be privileged, must be at least so pertinent to the controversy that it may become the subject of inquiry during the course of the trial.

*Criminal Law—Appeal—Review.*—*People v. Helmer*, 49 N. E. Rep. (N. Y.) 249. *Held*, that the jurisdiction of the Court of Appeals is confined to the review of questions of law only, and no unanimous decision of the appellate division in a criminal case, not involving the death penalty, that there is evidence supporting or tending to sustain a verdict not directed by the court can be reviewed on appeal (Const., Art. 6, § 9). From this decision, O'Brien, J., vigorously dissents. He maintains that the question in the case—whether there is any evidence to sustain the verdict—has been considered as purely a question of law, ever since the decision of Lord Mansfield, in *Carpenter's Co. v. Haywood*, 1 Doug. 373. See also 1 Greenl. Ev., § 49; *Mason v. Lord*, 40 N. Y. 476. The limitations upon appeals to this court in Const., Art. 6, § 9, embrace three cases only; (1) judgments finally determining actions; (2) final orders in special proceedings; (3) orders granting new trials upon exceptions, where the appellant stipulates that judgment absolute may be rendered in case of affirm-

ance. These limitations, he argues, apply only to civil cases. The majority of the court were probably misled to construe them as applying to criminal cases, as well, from the fact that judgments of death are mentioned by way of exception. But this exception was clearly intended only to enable the court to continue to entertain appeals in capital cases, just as it had before.

#### WILLS.

*Wills—Bequest for Celebration of Mass.—Harrison v. Brophy et al.*, 51 Pac. Rep. (Kan.) 883. In a will a residuary sum was bequeathed in the following language: "I give and bequeath to Rev. James Collins, for mass, for his grandfather's and grandmother's soul." The validity of the legacy was denied by the heirs on the ground that the will created a trust which was void for uncertainty of beneficiaries. *Held*, it was an absolute gift, imposing upon the conscience of the donor the duty of performing the service named.

*Wills—Construction—Equitable Conversion—Res Judicata—International Comity.—Appeal of Clark*, 39 Atl. Rep. (Conn.) 155. A will directed that the residue of the testatrix's estate be divided equally among her husband and children, "share and share alike, my husband and my children sharing *per capita*." The husband was to hold the children's shares in trust until each became twenty-five years of age, and then "to pay the whole sum over to" such child; but if the child should previously marry, one half of its share was to "be paid" on such marriage, "the other half" on becoming twenty-five years of age. *Held*, not to work an equitable conversion of lands of which testatrix died seised. A general residuary clause will not be given the effect of a conversion, unless a power of sale is clearly implied from the whole will. *Hobson v. Hale*, 95 N. Y. 588; *Hale v. Hale*, 125 Ill. 399. The courts of Connecticut are not required by international comity to adopt the construction of a will by a court of a foreign State as to whether the will marked a conversion of lands situated within the State, and of which the testatrix died seised. It would probably be otherwise if the question were not one directly involving the mode of passing title to lands in the State. *Rockwell v. Bradshaw*, 67 Conn. 814, 34 Atl. 758.

#### MISCELLANEOUS.

*Intoxicating Liquors—Sales to Minors.—Bartman v. State*, 43 S. W. Rep. (Tex.) 984. *Held*, that one who delivers to a minor a glass of intoxicating liquor at the request of another, who pays for the same, is not guilty of the offense of selling or giving liquor to a minor.

*Dedication—Identity of Descriptions—Home for Care of the Inebriates v. City and County of San Francisco*. 51 Pac. Rep. (Cal.) 950. The city of San Francisco dedicated a certain lot owned by it to the public use, as a "Home of Inebriates." The legislature, later, in 1870, passed an act reading: "The title to the lot set apart by the Board of Supervisors of San Francisco, or a committee of said board, to and for the corporation known as the 'Home for the Care of the Inebriates,' is hereby confirmed to said corporation." The lot was not described in the act, was not set apart, nor was there such a corporation as the "Home for the Care of the Inebriates." *Held*, in an action to quiet title that no title had ever been acquired.